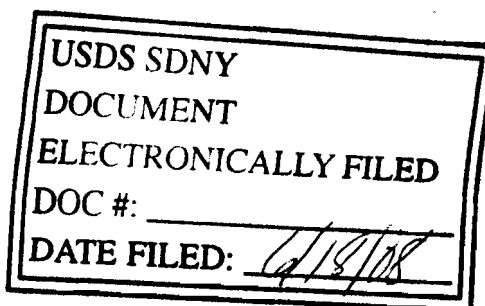




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JUN 17 2008

June 17, 2008

**VIA FAX (212) 805-7912**

Hon. John G. Koeltl  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

*Time to move or answer  
extended to July 11, 2008.  
So ordered.*

**Re: Pure Power Boot Camp, et al. v. Warrior Fitness, et al.**  
**08 Civ. 4810 (JGK) (THK)**

*JG Koeltl  
U.S.D.C.*

Your Honor:

*6/17/08*

This firm represents Defendants in the above-referenced action. We write to respectfully request a stay of Defendants' time to answer or otherwise move with respect to the Complaint in this matter until 10 days after the resolution of Plaintiffs' pending Motion for a Preliminary Injunction. Defendants' time to answer or move is currently scheduled to expire on Monday, June 23, 2008. Our adversary has refused to permit Defendants an extension of their time to answer or move.

## **I. Procedural History**

As the Court may recall from Defendants' June 9, 2008 letter application to the Court, we showed that Plaintiffs did not merely supplement their State Court papers, as the Court directed during the June 6 conference, but instead filed a second memorandum of law (raising new arguments and, in total, exceeding the Court's page limits for memoranda of law) and a second affidavit of Lauren Brenner.

On June 10, 2008, the Court ordered that Defendants were to respond to all of Plaintiffs' submissions, but to point out to the Court which of the various allegations in Plaintiffs' submissions were contradictory and to request additional time to submit their oppositions papers if Defendants deemed it necessary. Defendants made a letter application requesting an additional two weeks to respond to Plaintiffs' multiple motion papers and for the oral argument on Plaintiffs' Motion. On June 10, 2008, the Court granted that application. Accordingly, Plaintiffs' pending Motion for a Preliminary Injunction is now scheduled for oral argument on July 24, 2008.

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Hon. John G. Koeltl

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Since that time, Magistrate Judge Katz has scheduled a conference for tomorrow morning on the issues of, among other things, the admissibility of e-mails stolen by Plaintiffs from Defendants that comprise the majority of Plaintiffs' claims in their Motion and lawsuit. Defendants anticipate that Magistrate Judge Katz will require a motion or hearing on these issues. Accordingly, many of the initial matters in this case will not be determined until July 24, 2008--at the earliest.

## II. Prejudice to Defendants and Basis for Application

Defendants require additional time to answer or move because they would be prejudiced by having to respond to allegations that may become moot by the time Plaintiffs' Motion and the issues before Magistrate Judge Katz are resolved. For example, if Magistrate Judge Katz rules that Plaintiffs' proffered e-mails are in fact inadmissible, this would almost certainly require Plaintiffs to amend their Complaint. Similarly, if Your Honor should rule that Plaintiffs have not shown a likelihood of success on some or all of their claims, the substance of such a ruling could affect the parameters of Defendants' motion to dismiss or a motion for summary judgment following the filing of an answer. On the other hand, Plaintiffs will not be prejudiced by such an extension because no significant discovery will occur until the resolution of the Motion.

Moreover, it is a waste of this Court's resources, and the parties' time and money, for Defendants to confront two overlapping motions at once.

Accordingly, Defendants respectfully request a stay of their time to answer or otherwise move with respect to the Complaint in this matter until 10 days after the resolution of Plaintiffs' pending Motion for a Preliminary Injunction.

We thank the Court for its attention to these matters.

Respectfully submitted,

Daniel A. Schnapp

Enc.

cc: Magistrate Judge Katz  
Richard L. Herzfeld, Esq.

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